

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

KEVIN BATES,)	
)	Civil Action No. 15 – 780
Plaintiff,)	
)	District Judge Nora Barry Fischer
v.)	Magistrate Judge Lisa Pupo Lenihan
)	
LIEUTENANT A.J. MORRIS, <i>et al.</i> ,)	
)	
Defendants.)	
)	

ORDER

AND NOW, this 23rd day of March, 2016, after Plaintiff Kevin Bates having filed an action in the above-captioned case, and after Defendants filed a Motion to Dismiss for Failure to State a Claim on December 23, 2015, and after a Report and Recommendation was filed by the United States Magistrate Judge on February 26, 2016 giving the parties until March 14, 2016 to file written objections thereto, and no Objections having been filed, and upon independent review of the record, and upon consideration of the Magistrate Judge’s Report and Recommendation, which is adopted as the Opinion of this Court,

IT IS HEREBY ORDERED that the Motion to Dismiss (ECF No. 19) is granted in part and denied in part. The Motion is granted as to the claim of deliberate indifference to prison conditions/creation of unsafe conditions against Defendants Morris, Gagnon, and Watson (Count 3), the intentional infliction of emotional distress claim against Defendant Gagnon (Count 5), the negligence claim against Defendant Watson (Count 7), and the retaliation claims against Defendants Morris and Gagnon (Counts 8 and 9). The Motion is denied as to the assault and

battery claim against Defendant Morris (Count 2), the intentional infliction of emotional distress claim against Defendant Morris (Count 5), and the claim of deliberate indifference to serious medical needs against Defendant Watson (Counts 4 and 6). The claim of excessive force against Defendant Morris (Count 1) also remains.

By the Court:

s/Nora Barry Fischer
Nora Barry Fischer
United States District Judge

cc: Kevin Bates
KB-3514
SCI Benner Township
301 Institution Drive
Bellefonte, PA 16823

Counsel for Defendants
Via CM/ECF Electronic Mail